

## Article - Natural Resources

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§8-1104.

An appraiser for the Department, the trier of fact in any condemnation proceeding, or any other person charged by law to determine fair market value shall consider the following among other relevant factors in determining the fair market value of any interest in land being acquired to implement § 8-1103 of this subtitle:

(1) The date of valuation shall be determined recognizing that the State may have taken properties as of the date that prohibitions were imposed for the Beach Erosion Control District under § 8-1105.1 of this subtitle;

(2) If the land lies within the Beach Erosion Control District established pursuant to § 8-1105.1 of this subtitle, the land shall be valued subject to the restrictions of § 8-1105.1 of this subtitle; provided, however, that if it appears that the owner is entitled to compensation for a taking under the provisions of § 8-1105.1(c) of this subtitle, then the property shall be valued as if the restrictions of § 8-1105.1 of this subtitle were not in effect, but all other applicable restrictions of State and local law were, including:

- (i) Building codes;
- (ii) Zoning;
- (iii) Public rights across the property acquired through dedication or prescription;
- (iv) Easements for dune construction and maintenance; and
- (v) Density limitations; and

(3) If fair market value is to be based on an assumption that the land can be developed, the costs of that development shall be estimated assuming the risk of storm damage with the beach in its condition as of the date of valuation, and taking into account any deterioration of the beach which could reasonably be expected to occur after the date of valuation, given no artificial improvement or protection of the beach at public expense. The costs shall include insurance costs and special construction costs attributable to the need to protect against storm damage.

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